

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION IN NURSING

IN THE MATTER OF
MARY ANN GIANELLI

DOCKET NO. NUR-2009-0061

RN LICENSE NO. 136232
LIC. EXP. DATE: 12/31/10

ORDER TO SHOW CAUSE

Mary Ann Gianelli, you are hereby ordered to appear and show cause why the Massachusetts Board of Registration in Nursing ("Board") should not suspend, revoke or otherwise take action against your license to practice nursing as a Registered Nurse (RN) in the Commonwealth of Massachusetts, License No. 136232, or your right to renew such license, pursuant to Massachusetts General Laws (G. L.) Chapter 112, § 61 and Board regulations at 244 C.M.R. 9.03, Standards of Conduct for Nurses, based upon the following facts and allegations:

1. On or about September 30, 1977, the Board issued to you a license to engage in the practice of nursing as a Registered Nurse (RN) in the Commonwealth of Massachusetts. Your license is current and will expire on December 31, 2010, unless renewed.
2. At all times relevant to the allegations in this Order to Show Cause your license was subject to the jurisdiction of the Board.
3. During the period from approximately 1999 through June of 2006, you engaged in criminal activities including, but not limited to, racketeering, money laundering, knowingly signing false federal income tax returns, illegally structuring cash transactions to evade federal reporting requirements, and illegal gaming.
4. On or about September 21, 2006, you were charged in federal court with the following felonies: *Racketeering Conspiracy* (1 count); *Racketeering* (1 count); *Illegal Gambling Business* (1 count); *Money Laundering Conspiracy* (1 count); *Structuring Cash Transactions for Purpose of Evading Reporting Requirements –Bank Checks* (3 counts); *Structuring Cash Transactions for Purpose of Evading Reporting Requirements –Postal Money Orders* (10 counts); and *Making and Subscribing False Tax Returns* (2 counts) (U.S. District Court for the District of Massachusetts Dkt. No. 1:05-cr-10003-NMG-17).
5. On March 4, 2009, you pled "Guilty" to each of the counts referenced in ¶4 of this Order to Show Cause.
6. You are scheduled to be sentenced on the counts referenced in ¶4 of this Order to Show Cause matters on June 5, 2009.

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7. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a Registered Nurse pursuant to G. L. c. 112, § 61 for deceit, malpractice and gross misconduct in the practice of the profession and for offenses against the laws of the Commonwealth relating thereto.
8. Your conduct as alleged warrants action by the Board against your license to practice as a Registered Nurse pursuant to G. L. c. 112, § 74 for your conviction on multiple federal felonies and for your failure to furnish the Board with satisfactory proof of the good moral character required for initial licensure and license renewal.
9. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a Registered Nurse pursuant to Board regulation 244 C.M.R. 9.03 for violation of Standards of Conduct for Nurses, namely:
 - a. Your conduct as alleged violates 244 C.M.R. 9.03 (6) for failing to comply with laws and regulations related to nursing including, but not limited to, your obligation to pay state taxes;
 - b. Your conduct as alleged violates 244 C.M.R. 9.03 (7) for aiding any person in performing any act prohibited by law or regulation; and
 - c. Your conduct as alleged violates 244 C.M.R. 9.03 (47) for engaging in any other conduct that fails to conform to accepted standards of nursing practice or in any behavior that is likely to have an adverse effect upon the health, safety, or welfare of the public.
10. Your conduct as alleged also constitutes unprofessional conduct and conduct which undermines public confidence in the integrity of the profession. *Sugarman v. Board of Registration in Medicine*, 422 Mass. 338, 342 (1996); see also *Kvitka v. Board of Registration in Medicine*, 407 Mass. 140, cert. denied, 498 U.S. 823 (1990); *Raymond v. Board of Registration in Medicine*, 387 Mass. 708, 713 (1982).

* * * * *

You have a right to an adjudicatory hearing ("hearing") on the allegations contained in the Order to Show Cause before the Board determines whether to suspend, revoke, or impose other discipline against your license. G.L. c. 112, § 61. Your right to a hearing may be claimed by submitting a written request for a hearing *within twenty-one (21) days of receipt of this Order to Show Cause*. You must also submit an Answer to this Order to Show Cause in accordance with 801 CMR 1.01(6)(d) *within twenty-one (21) days of receipt of this Order to Show Cause*. The Board will give you prior written notice of the time and place of the hearing following receipt of a written request for a hearing.

Hearings shall be conducted in accordance with the State Administrative Procedure Act, G.L. c. 30A, §§ 10 and 11, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 and 1.03, under which you are granted certain rights including, but not limited to, the

rights: to a hearing, to secure legal counsel or another representative to represent your interests, to call and examine witnesses, to cross-examine witnesses who testify against you, to testify on your own behalf, to introduce evidence, and to make arguments in support of your position.

The Board will make an audio recording of any hearing conducted in the captioned matter. In the event that you wish to appeal a final decision of the Board, it is incumbent on you to supply a reviewing court with a "proper record" of the proceeding, which may include a written transcript. *New Bedford Gas and Light Co. v. Board of Assessors of Dartmouth*, 368 Mass. 745, 749-750 (1975). Upon request, the Board will make available a copy of the audio recording of the proceeding at your own expense. Pursuant to 801 CMR 1.01 (10) (i)(1), upon motion, you "may be allowed to provide a public stenographer to transcribe the proceedings at [your] own expense upon terms ordered by the Presiding Officer." Those terms may include a requirement that any copy of the transcript produced must be sent promptly upon completion and on an ongoing basis directly to the Presiding Officer by the stenographer or transcription service. The transcript will be made available to the Prosecutor representing the Board. Please note that the administrative record of the proceedings, including but not limited to, the written transcript of the hearing is a public record and subject to the provisions of G.L. c. 4, § 7 and G. L. c. 66, § 10.

Your failure to submit an Answer to the Order to Show Cause within 21 days of receipt of the Order to Show Cause *shall result in the entry of default* in the captioned matter. Your failure to submit a written request for a hearing within 21 days of receipt of this Order to Show Cause *shall constitute a waiver of the right to a hearing* on the allegations herein and on any Board disciplinary action.

Notwithstanding the earlier filing of an Answer and/or request for a hearing, your failure to respond to notices or correspondence, failure to appear for any scheduled status conference, pre-hearing conference or hearing dates, or failure to otherwise defend this action shall result in the entry of default.

If you are defaulted, the Board may enter a Final Decision and Order that assumes the truth of the allegations in this Order to Show Cause, and may revoke, suspend, or take other disciplinary action against your license to practice as a Registered Nurse in the Commonwealth of Massachusetts, including any right to renew your license.

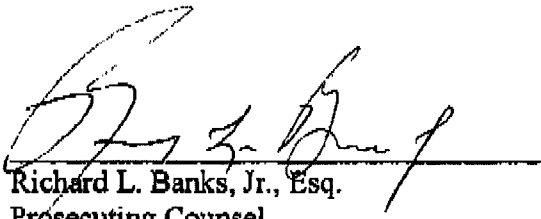
Your Answer to the Order to Show Cause and your written request for a hearing must be filed with Richard L. Banks, Jr., Esq., Prosecuting Counsel at the following address:

Richard L. Banks, Jr., Esq.
Prosecuting Counsel
Department of Public Health
Office of the General Counsel
239 Causeway Street, Second Floor
Boston, MA 02114

You or your representative may examine Board records relative to this case prior to the date of the hearing during regular business hours at the office of the Prosecuting Counsel. If you elect to undertake such an examination, then please contact Prosecuting Counsel in advance at (617) 973-0835 to schedule a time that is mutually convenient.

BOARD OF REGISTRATION
IN NURSING,
Rula Harb, MSN, RN, Executive Director

By:


Richard L. Banks, Jr., Esq.
Prosecuting Counsel
Department of Public Health

Date: May 20, 2009